

2017

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### Recommended Citation

Akpan, C. O. (2017). The Morality of Same Sex Marriage: How Not to Globalize a Cultural Anomie. *Journal of Health Ethics*, 13(1). <http://dx.doi.org/10.18785/ojhe.1301.02>

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# **THE MORALITY OF SAME SEX MARRIAGE: HOW NOT TO GLOBALIZE A CULTURAL ANOMIE**

**By**

**Christopher Akpan, PhD**

## **Abstract**

The question of the morality of same-sex marriage has become quite prevalent in the 21<sup>st</sup> century. Some western cultures believe that same-sex marriage is morally defensible and can be legalized. Using the human right fad and political might, they have engineered the globalization of this phenomenon. This move has been strongly opposed mostly by ‘developing’ nations and select religious denominations. The counter argument of these groups is that same-sex marriage is immoral, unnatural and ungodly. This paper defends the thesis that same-sex marriage cannot morally be defended successfully. It attempts to demonstrate that same-sex marriage is not exclusively a western phenomenon but has been in practice for a long time, even in some African cultures; though in more subtle ways. The author argues that in whatever way it is practiced, same-sex marriage is a cultural anomie, and more or less an elixir and alibi respectively, aimed at covering up immorality. The paper concludes that it is wrong for some cultures to attempt to globalize this cultural anomie, especially by hinging its morality on the human right’s doctrine. The paper is expository, speculative, critical, controversial, and thought provoking.

**Key Words:** Morality; Same-sex Marriage; Cultural Anomie, Globalize

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# **THE MORALITY OF SAME SEX MARRIAGE: HOW NOT TO GLOBALIZE A CULTURAL ANOMIE**

**Christopher Akan, PhD**

## **Introduction**

Basically, marriage is a cultural universal. But how cultures conceive of marriage vary depending on many factors such as the customs and mores accepted, sex roles, gender roles, human right interpretation, religion, procreation and perpetuation of lineage, etc. Thus, there are many types of marriages. However, marriage is principally an institution in which interpersonal relationships, usually sexual, are acknowledged. Traditionally, it depicts a socially and legally recognized union between two people – one, the husband, and the other, the wife: presupposing man and woman.

The 21<sup>st</sup> century has witnessed a flurry of conceptions of *marriage* that calls for gender neutral language rather than gender specification. This has made all major English dictionaries, sociologists and anthropologists revise their definition of the term marriage to include same-sex unions. Same-sex marriage refers to the union of two people of the same sex who live together as a family. It is more or less marriage between people of the same sex, consummated either as a secular civil ceremony or in a religious setting.

Same-sex marriage is a phenomenon that has engendered moral, religious and legal debates all over the world. Its moral status and justification has been hotly debated. Critics of same-sex marriage say it is immoral and unnatural, while supporters say there is nothing immoral about it, as far as it is covered by human right's doctrine. Yet, many people do not even know that same-sex marriage is not a recent phenomenon; but, has been there as far back as the early Roman empire. Many also believe that same-sex marriage is exclusively a western phenomenon and so are ignorant of the fact that it is practiced and accepted by other cultures, such as in Sub-Saharan Africa.

The objective of this paper is to show that for the westerners, same-sex marriage is propelled by the urge of mere pleasure and fun and the belief in doing to their bodies as they like (their inalienable right), thus leading to what this paper terms as an anomie. For the Sub-Saharan Africans and the like, it is argued here that same-sex marriage meant for perpetuation of lineage as an avenue of perpetrating immorality. It is therefore the contention of this paper that projecting same-sex marriage as a demand of human right is a sort of elixir and alibi to swallowing up immorality.

## **An exposition on the notion of same-sex marriage**

Marriage in the first place is an institution found in all societies. Traditionally, marriage according to Henry Tichler (2004) "is the socially recognized, legitimized, and supported union of individuals of opposite sexes" (p. 296). He goes further to characterize marriage as involving some basic elements viz:

- (1) It takes place in a public and usually formal manner;
- (2) it includes sexual intercourse as an explicit element of the relationship;
- (3) it provides the essential

for legitimizing offspring; that is, it provides newborns with socially accepted statuses, and (4) it is intended to be a stable and enduring relationship (p. 296). Tichler's definition and characterization of marriage is typical of the traditional and religious sense of marriage, and it is the sense in which "marriage" was known for many decades.

However, with the advent of liberal voices for the recognition of same-sex couples, there have been several calls for re-conceptualization of the term marriage, to the extent that marriage is now regarded as *the union of two people living together as spouses in a family*. This characterization fits same-sex marriage quite well. Indeed, it is in this sense that same-sex marriage is basically seen as involving "two people of the same-sex living together as spouses/family" (Tichler 2004, p. 296). The notion of same-sex connotes so many other notions describing a certain intimate relationship having to do with people of the same sex attracted to each other. Thus, the idea of same-sex involves homosexuality, gay and lesbianism. These terms simply refer to activities of persons having sexual feelings or orientation to persons of their own sex. The terms homosexual and gay are mostly used to characterize the males, while the term lesbian refer to the female homosexuals.

The practice of same-sex marriage (or gay-marriage as mostly used in the western world) is not a recent thing as some people would want to believe. Though the first law providing for people of same-sex marriage was enacted in the 21<sup>st</sup> century, precisely in the Netherlands, in April 2001, the practice of same-sex marriage has been there right from ancient times. Historian John Boswell records that the first performance of same-sex marriage between child emperor Elagabus to Hierocles, his chariot driver, as the husband. He is also said to have married Zoticus, an athlete in a lavish public ceremony in Rome. Nero, the first Roman Emperor, is recorded in history to have engaged in same-sex marriage. He married two other males on different occasions. The first was Pythagoras, with whom Nero was the bride. He later married Sporus, a young boy, and here took the role of the groom. These were done in a public ceremony with all the solemnities of matrimony. ([En.m.wikipedia.org/wiki/same-sex-marriage](http://en.m.wikipedia.org/wiki/same-sex-marriage)).

Medieval times accords the same-sex marriage between Perodias and Munho Vandilas in the Galician municipality of Rairiz de Veig, Spain. This union occurred April 16, 1061 and was conducted by a Priest in a small chapel.

The contemporary period witnessed a heightening of gay rights activism in the 1970s, especially in the western world. Though gay people were not initially interested in marriage as they deemed it to be a traditional institution, they successfully laid the seed for recognition of such unions. The search for legal recognition of same-sex relationship took root between the 1980s and 1990s. Denmark was the trail blazer in recognizing a legal relationship between same-sex couples in 1989. In 2001, the Netherlands became the first nation to legally recognize same-sex marriage and since then, many countries have followed suit, viz: Belgium (2003), Spain (2005), Canada (2005), South Africa (2006), Norway (2009) Sweden (2009), Portugal (2010), Iceland (2010); Argentina (2010) Denmark (2012), Brazil (2013), France (2013), Uruguay (2013) New Zealand (2013) United Kingdom, Luxembury (2015), United States (2015), Ireland (2015). Finland is to legalize it in 2017. It is believed that more than 20 nations so far, have legally recognized same sex marriage.

The above chronicle, one may argue, does not suggest that same-sex marriage is yet a global phenomenon. But it should be noted that when it began during the Roman Empire and the medieval period, a lot of people took it merely as an isolated phenomenon. But today, the

phenomenon has become somewhat ubiquitous around every continent of the world. The author contends that the impetus of this phenomenon is the human right fad which divulges into 'marriage equality', 'non- discrimination', and the 'right to marry', etc.

Meanwhile, it is imperative to note that same-sex marriage is not entirely a western phenomenon. In Africa for instance, there are some traditional societies that recognize and accept the marriage between two women; one taking the role of the man (husband), and the other taking the role of the wife. But this type of marriage is regarded as non-sexual. In Nigeria for instance, it has been recorded that same-sex marriage is recognized in the southern part of the country. Leo Igwe (2009) notes that in Igbo culture, a woman could marry another woman (as a wife) to perpetuate her inheritance and family lineage, if for instance her husband is dead and she had no child for him. Also in a childless marriage, where the husband is alive, the wife can take the initiative to marry a younger woman for her husband. This arrangement is also common among the Ibibio, and other sub-cultures. Female same-sex marriage is also practiced in Kenya, among the Gikuyu, Nandi, Kamba, Kipsigis people. There, such marriages are not propelled by homosexuality but is a way of sustaining family lineage and inheritance; especially for families without sons. (*Gender and Language in sub-Saharan African 2013, p. 35*). According to Paul (2011), such traditional practices have been aspects of the traditional practices and were protected under Article II (1) of the 2010 constitution. Paul notes that a case in point was referred to by Justice Jackson Ojwang, where Kibserea, an 85 year old childless widow married a single mother of two boys who was in her thirties, named Jesang. Kibserea paid a dowry to Jesang's father and a traditional Nandi wedding ceremony was held in 2006. Kibserea had also promised to choose a mature man to satisfy Jesang's sexual needs. In this wise, Kibserea became the socially and legally recognized husband of Jesang, and of course the father of her wife's children. Paul, citing the *Journal of Ethnology* notes that: "... a female husband is a woman who pays bridewealth for, and thus marries (but does not have sexual intercourse with) another woman. By so doing, she becomes the social and legal father of her wife's children." (Paul C. [www.care2.com/causes/traditional-same-sex-marriage](http://www.care2.com/causes/traditional-same-sex-marriage)).

The foregoing shows that while the western practice of same-sex marriage is propelled by homosexuality, the sub-Saharan Africans practice is borne out of the need to perpetuate the lineage and inheritance of the family, which could be argued, is based on the traditional demand of marriage.

### **The morality, and human right quandary on same-sex marriage**

'Same-sex marriage' evokes questions pertaining to sexual morality. Sexual morality generally is a hotly contested notion in Ethics. Central to this notion are the questions – in what circumstance is it morally permissible to engage in sexual activity? Other concomitant questions are; with whom, when, for what purpose, with which body part, and for how long, are we supposed to engage in such act? (Soble 2005, p.959). Philosophically, attempts to answer such questions could come from Thomistic natural law, Kantian deontology, utilitarianism, situationism, etc. However, our focus here is to contend with the moral questions raised and debunked by critics and proponents of same-sex marriage, respectively.

The most common objection usually raised against homosexuality/same-sex marriage is that it is unnatural. James Rachels and Stuart Rachels (2012), analyze the term 'unnatural' in three senses. First, they hold that to be unnatural could be taken as a statistical notion in which case "a human quality is unnatural if most people do not have it." (pp. 44, 45). In this sense,

homosexuality and same-sex marriage would be unnatural because the majority of people do not engage in it. They argue that this is not sufficient reason to reject homosexuality and same-sex marriage, since, for example, being left-handed, being tall and even being immensely nice in the same sense would be seen as unnatural. Second, they note that the meaning of ‘unnatural’ might be connected with the notion of a thing’s *purpose*. They point out that it is common for critics to argue that:

The part of our bodies seem to serve particular purposes. The purpose of the eyes is to see, and the purpose of the heart is to pump blood. Similarly, the purpose of our genitals is to procreate: sex is for making babies ... gay sex is unnatural because it is sexual activity that is divorced from its natural purpose (p. 45).

Their position is that if gay relationship is to be condemned this way, then a number of other accepted practices and norms have to be condemned: these might include oral sex, masturbation, using condoms, sexual intercourse during pregnancy and during menopause: artificial insemination and the like: all of these would be just as bad and unnatural as homosexuality (p.46).

In this same line of thought, Seth Millstein (2014), argues against the notion that the basic *purpose* of marriage is to procreate, and therefore same-sex couples cannot procreate. He raises the question if we should prohibit heterosexual (straight) couples from getting married if they are biological incapable of having children or decide not to have babies. He also notes that there are many legal benefits that heterosexual couples without children enjoy, such as “hospital visitation rights, joint tax return, welfare benefit for spouses and estate inheritance” ([www.bustle.com/articles/15957/how-to-argue-for-gay-marriage](http://www.bustle.com/articles/15957/how-to-argue-for-gay-marriage)); and should it be held that the fundamental purpose of marriage is procreation, then such couples should not benefit from such legal provisions ([www.bustle.com/articles/15957/how-to-argue-for-gay-marriage](http://www.bustle.com/articles/15957/how-to-argue-for-gay-marriage)).

At this point it is important to note that Millstein and the like (who do not seem to believe that every part of the human body has its specific function, nor that human activities have specific and some fundamental purposes) should take a very objective and deep look at the human structure, physique and physiology. This would reveal to them the unnaturalness of same-sex marriage. We will come back to this.

Meanwhile, for Rachels and Rachels (2012), the third sense of the notion, ‘unnatural’ could be taken as an evaluative term, in which case it would mean something like “contrary to what a person ought to be” (p. 45). That is to say, being homosexual or engaging in same-sex marriage is unnatural because it is contrary to what a person ought to be or what one ought to do. The Rachels’ see this as vacuous, and as not stating any reason for condemning it.

Close to the ‘unnatural’ objection is the objection posed mainly by Christians. The religious argument is that homosexuality is immoral because it has been condemned in the Bible. Quoting Leviticus 18:22, “you must not have sexual intercourse with man as you would with woman; it is abomination” (Contemporary English Bible), proponents of this argument have always argued that what is ungodly is immoral, and since God has commanded man against this, it is unnatural and should not be accepted. However, proponents of same-sex marriage have always tacitly retorted that the Bible itself does not appear to be a reliable guide to morality in that there are other moral injunctions like forbidding of the eating of sheep’s fat (Lev. 7:23);

condemning to death those who curse their parents (Lev. 20:9) and those who commit adultery (20:10), etc, that are not taken literally as presented in the Bible. So based on such examples, they conclude that the Bible is not always right, and because it is not always right, we cannot conclude that homosexuality and same-sex marriage is an abomination.

Another objection to same-sex marriage is the argument that traditionally, marriage is a sacred union that unites man and woman together for life, and any union having to do with sexual relation but which is contrary to the sacred institution is immoral; and would be changing a generally acceptable tradition. Proponents of same-sex marriage retort to this argument by saying that a lot of things were ‘always that way’ before they were changed. For example, dictatorial rule by kings and emperors, lack of legally recognized human rights, ritual human sacrifice, curing medical ailments with spells and magic, etc, have come to change with time. Their conclusion is that, the fact that something has been conceived as a sacred and long standing tradition is not a good reason not to do it differently or even change it.

Another dimension related to the moral question of same-sex marriage is the issue of the right to marry. This is one of the *rights* covered by an aspect of the human right doctrine. Human right is simply seen as any basic right or freedom to which all human beings are entitled and in whose exercise a government may not interfere. Proponent of same-sex hold that if the ‘right to marry’ is protected under article 23(2) of the International Covenant on Civil and Political Rights (ICCPR) as it were, then they are covered just like the straight couples. But the question as correctly noted by Gerber, Tay and Sifris (2014) is, whether this right literally includes same-sex couples; that is, if the relevant provision of the article in question is taken into consideration. The article 23 of the ICCPR states that:

- (i) The family is the natural and fundamental group unit of society and is entitled to protection by society and the state.
- (ii) The right of men and women of marriageable age to marry and to found a family shall be recognized (Cited in Gerber, Tay and Sifris 2014, p. 645).

The provisions of the above article have become a subject of controversy as critics of same-sex marriage say it excludes gay couples, while proponents of same-sex marriage hold that it includes them. The point of controversy is on the phrase ‘men and women’ in article 23(2). Many anti same-sex marriage say that the phrase clearly refers to the union between a man and a woman. But critics of the ICCPR provisions like Gerber, Tay and Sifris have made reference to the *Preamble* of the ICCPR as providing grounds for belief that the intention of the drafters of the documents have been mis-interpreted semantically. They note that the Preamble provides the clue to the purpose of the ICCPR which as stated, is to “recognize the inherent dignity and .... The equal and inalienable rights of all members of the human family” (p. 645). Thus, for them, the document does not provide any gender specification; hence, there is need to re-interpret the ICCPR to basically and straight-forwardly include the right of same-sex couples to marry.

Moreover, using the Article 16 of the Universal Declaration of Human Right (UDHR) of the UN, proponents further claim that gay couples have invariable rights to marry whoever they want to marry. This article states:

Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal

rights as to marriage, during marriage and at its dissolution (Cited in Awan, [www.thelawyerschronicle.com/a-ban-on-homosexuality-in-nigeria...](http://www.thelawyerschronicle.com/a-ban-on-homosexuality-in-nigeria...))

The interpretation of this article, especially by supporters of gay couples indicate that people of the same gender wishing to marry themselves have the right to do so and should not be limited. Also, banning same-sex based on cultural and religious grounds or values is not sufficient enough, since the UDHR has clearly stated that the religious and cultural practices of any state or country should not interfere or violate this fundamental rights of its citizens.

It is this so called ‘fundamental rights’ that has propelled western countries to ‘evangelize’ the necessity of non interference on the activities of same-sex couples. In fact any ban on same-sex union by any state, country, culture or religious group is seen as discrimination and a violation of the rights of the gay community.

### **Human right or lineage perpetuation?: an elixir/alibi for a cultural anomie.**

Our discussion so far has shown that same-sex marriage is basically justified from two dimensions. For the western minded person who engages in same-sex relationship, which may culminate into marriage, it is his/her fundamental right to marry who ever he/she wants, and does not matter whether or not such a person is of the same gender. It is important to note that this conception is basically a libertarian view in which case what one does with his/her body, but that does not constitute harm to the society, is his/her own right. Supporters of same-sex marriage and libertarians of that bent, as noted by Olen and Barry (1999), often wonder why people “consider it moral to eat lunch with somebody of the same-sex but immoral to have sex with that very same person( p. 78)”. They wonder why one cannot have sex with persons of the same sex purely for pleasure: whereas nobody raises eye brows when tennis, football and the like are engaged “purely for pleasure” (p. 78). This view shows that same-sex marriage for the westerner is not basically for procreation, but it is aimed at satisfying what gives them pleasure, especially as covered by what they claim as fundamental and inalienable (unforfeitable) rights.

This fad called ‘human right’, which is more or less like a toga is a weapon used by the westerner to justify and to globalize what ordinarily is immoral. For example, Obama, arguably the then most powerful politician on earth (when he was the US President), was not initially disposed to legalizing same-sex union. But with political demands and influences from other western cultures, hinged on the fad of human right, he and the US succumbed to pressure. And on June 26, 2015, through a ruling of the Supreme Court, the US legalized same-sex marriage. Thenceforth, any ban on same-sex marriage in the US was invalidated. Obama even before the ruling, is said to have been commended by Guido Westerwelle, the German foreign Minister for openly supporting gay marriage. It is important to note that the US is the model which many developed and underdeveloped nations look up to either for political, economic, social aid or for territorial protection. Thus, as soon as Obama and the US succumbed to other western pressures, many other countries in Europe, Latin America, Oceania and North America created laws that recognized gay marriage (Choi 2013, [www.intercp.org/2013/05/same-sex-marriage-and-the-global-anti-christian-movement](http://www.intercp.org/2013/05/same-sex-marriage-and-the-global-anti-christian-movement)). The legalization of same-sex marriage in many countries of the west and lately in US, has a reverberating effect in Africa. For example, Nigeria which had banned same sex marriage since 2013, and is always looking up to the US is now under pressure as there have been salient calls that such laws are violations of human right, and therefore immoral.

Our contention in this paper is that the human right fad as a justification of same-sex marriage is a sort of elixir – a substance that is believed to cure all infirmities. It is also



conceived here as a flavoured sweet stuff used in forcing one to swallow unpleasant and bitter stuff. Same-sex marriage is simply bestial: it is a slap on human sensibility and more or less sickly. If a male goat, or dog or any other animal for that matter do not mate with their kind, why should man stoop that low to even think of marrying another man? If man is part of nature, and a natural and biological being for that matter, he should know that nature as it were has structured the physique of man and woman in a way that every part has its function and should be used for that function. Or do we use our legs to fly, or our hands to walk or our ears to swallow food? Assuming we use any part of our body for non-specific function, we should know that such is tangential, and not natural. Assuming we see a man develop wings and fly or a man with full fleshed and milk-filled breast for example, would we not say such are unnatural phenomena? Physiologists and medical doctors would claim that such phenomena are sickly and abnormal, and not natural: for it is not in the nature of man to fly nor develop full fleshed and milk-filled breast. As such they would look for ways to rectify the abnormality. In this sense, does it not occur to homosexuals and supporters that such activity where a male sleeps with another male as with a woman is sickening, abnormal and therefore obscene, indecent and immoral.

Countries that sanction such obscenities on the altar or platform of human right are in my thinking encouraging a cultural anomie. An anomie in this sense is moral looseness or lack of moral control. This situation is typical of many westerners who believe that the doctrine of the human right is a cornerstone of public policy, hence, traditional and religious values should be rejected or relegated in support of the former.

In this same token, I consider the so called 'non-sexual' same-sex marriage, as practiced in some Sub-Saharan cultures like Nigeria, Kenya, etc, as a cultural anomie. The justification of this type of marriage is that it is fundamentally meant for perpetuation of lineage. Granted that traditionally the Africans consider marriage as basically meant for procreation, I think that female same-sex marriage, where a woman marries another woman and gives her license to have sex with a man that is not her legal husband just for procreation is a serious anomie. This cultural provision is an anomie in the sense that in such cultures, adultery is also usually treated as an immoral act: yet wives of female husbands are free to commit some kind of special or perhaps 'acceptable adultery' in a bid to procure heirs to perpetuate the family lineage. For many wealthy female husbands, this does not matter in so far as they can attain social acceptance and economic stability. Moreover, there is some inherent contradiction in the term 'female husband' just like in the term 'a male wife'. A 'husband' in the ordinary sense is a married man, he is the opposite of wife, a married woman. Unfortunately, this semantical contradictions has been waved aside by practitioners and supporters of same-sex marriage. In this sense, Lou Marinoff (2003) decries the idea that being a man or woman (husband or wife) is determined by cultures. Yet being a male or female is a biological and sexual matter and "the rules of biology and sexual reproduction are fixed by nature". ( p. 206)

More importantly, I consider female same-sex marriage as engendering promiscuity among the female-wives and those that I call the hired 'quasi husband' who are procured for the task of making children for others. Unfortunately, it is generally noted that: "Wives of female husbands cite greater sexual and social freedom as compared to those with male husbands since they are not limited to one sexual partner as is often the case in male-female marriages" (Nyanungo 2012, [www.osisa.org/buwa](http://www.osisa.org/buwa)). This glaringly is an alibi to immorality. Though, some people might sympathize with 'son-less' or child-less' female husbands who engage in same-sex marriage, the inherent immorality in this practice cannot be wished away. Thus, for me, the justification of female same-sex marriage as necessary for lineage perpetration and sustenance of inheritance is more or less and alibi for swallowing up immorality. It is simply a justification for

immorality. The concomitant evil like sexually transmitted diseases, moral looseness, lack of self authority, etc. are apt to show that such practices ought not be encouraged.

## **Conclusion**

The author attempted to demonstrate that same-sex marriage, though very popular in the western world, is not exclusively a western phenomenon, neither is it really a recent thing. The paper has reported that some Sub-Saharan African countries engage in same-sex marriage, and it is acceptable in their customs and cultures.

The difference between same-sex marriage in the western world and in the Sub-Saharan African countries have also been explored here. In the former, homosexual-based marriage is popular, and is driven and motivated by the human right fad through which same-sex couples feel they have 'inalienable right' over their bodies and regarding who to marry, while in the later, same-sex marriage is not sexually inclined, but is done out of the necessity for procreation, whereby the motivating factor is perpetuation of lineage.

The position of this paper is that, though gay people may have feelings for whoever they like, and would want to be attached to such, it is the opinion of the author that it remains unnatural for a man to sleep with a man as with a woman, and the idea of marriage in this sense is an abomination. The provision that gay people claim from the human right doctrine as the 'right to marry' is a misrepresentation of what was originally intended. This misrepresentation is therefore a sort of an elixir forced on people to accept same-sex marriage as a fundamental right. This is a consequent of a culture's anomie and cannot be made a global phenomenon. This paper also posits that, enticing as non-sexual same-sex marriage may sound because it is motivated by the demand for procreation for lineage perpetuation, it is more or less a sort of alibi forcing one to accept what is basically immoral. The inherent contradiction leaves it a grave anomie and this should not be encouraged in any culture.

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